

UNITED STATES DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT  
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To: All State Directors and Field Officials

From: Assistant Director, Minerals and Realty Management

Subject: Reviewing Requests for Surface and Downhole Commingling of Oil and Gas Produced from Federal and Indian Leases

**Program Area:** Oil and Gas Operations.

**Purpose:** This Instruction Memorandum (IM) provides guidance for reviewing requests for surface and downhole commingling. This guidance clarifies commingling policy and replaces WO-IM-2011-184, [Policy for Approving Requests for Commingling and Allocation Approval and Off-lease Measurement Approval](#).

**Policy/Action:** Federal regulations (43 CFR 3162.7-2 and -3) authorize the Bureau of Land Management (BLM) to approve commingling of Federal and Indian oil and gas production with production from other sources before measurement. However, commingling approval is discretionary and may only be approved if commingling is in the public interest or in the interest of the Indian tribal or allottee lessor(s). Considerations in determining whether commingling is in the public interest or in the interest of the Indian lessor(s) include:

- (1) Maximizing the ultimate recovery of oil and gas from Federal and Indian leases;
- (2) Reducing environmental impacts;
- (3) Ensuring that Federal and Indian royalty is not adversely affected; and
- (4) Ensuring that the BLM has the ability to verify that production is accurately measured and properly reported.

For the purpose of this IM, the term "commingling" means the combining of production from multiple leases, unit Participating Areas (PA), Communitized Areas (CA), or fee or State properties before the point of royalty measurement. The practice of combining production from multiple wells on a single lease, unit PA, or CA before royalty measurement is not considered commingling. The downhole combining of production from different geologic intervals or formations on the same lease, unit PA, or CA is also not considered commingling for the purposes of this IM but must be approved under 43 CFR 3162.3-2.

## **Approval of New Commingling Applications**

The authorized officer (AO) may only approve commingling requests that fall in one or more of the three categories listed below (see attachment 1 for more detailed guidance, definitions, and examples).

**Category 1 - Commingling with no royalty impacts:** The AO approves commingling requests that have no potential to adversely impact Federal or Indian royalty income, production accountability, or the distribution of royalty.

- Generally, the AO may approve the commingling of Federal or tribal Indian leases that are uncommitted to a unit PA or CA, and that have the same royalty rate, the same royalty distribution (see attachment 2), and 100 percent Federal or same Indian tribal mineral interest ownership.
- Less common situations could also fall under this category, such as the commingling of unit PAs or CAs that are 100 percent Federal mineral interest ownership with other unit PAs, CAs, or individual leases that are also 100 percent Federal mineral interest ownership and the same royalty rate and royalty distribution. The same principle applies to unit PAs, CAs, or individual leases with 100 percent mineral ownership interest by the same Indian tribe. Another situation includes the commingling of production from two or more CAs with the same percentage of allocation to Federal leases.
- Commingling Indian tribal leases, unit PAs, or CAs requires the consent of the tribe. The AO should not approve commingling requests under this category that involve Indian allotted leases because of the highly varied mineral ownership of allotted leases.
- For downhole commingling applications, the AO must give additional consideration to the compatibility of the formations proposed for commingling including reservoir pressures, decline characteristics, water content, presence of sour gas, and existing or proposed enhanced recovery projects.

Attachment 1-8 and example 1 at attachment 1-16 include more discussion of approvals granted under this section.

**Category 2 - Commingling of low-volume properties with potential royalty impacts:** The only situation in which a commingling request that could adversely affect royalty income or production accountability may be approved absent overriding considerations is if the leases, unit PAs, or CAs proposed for commingling are determined to be low-volume properties as defined in attachment 1-1. Downhole commingling approvals should also include reservoir considerations as discussed in Category 1.

- The operator must provide a supporting economic analysis and the AO must document that he/she has reviewed the economic analysis and concurs with the findings.
- Commingling of Indian tribal leases requires that the operator receive the consent of the tribe(s). If the commingling request includes Indian allotted leases, the operator must notify all Indian allottee mineral owners of any leases included in the commingling request at the time the operator submits the request to the AO. The operator must submit an affidavit stating that a notice was mailed to each allottee mineral owner of record for whom the Bureau of Indian Affairs (BIA) superintendent or area director has an address.

Attachments 1-10 through 1-15, example 3 at attachment 1-27, and example 4 at attachment 1-32 include more discussion of approvals granted under this category.

### **Category 3 - Commingling with potential royalty impacts based on overriding**

**considerations:** Commingling requests vary considerably from case to case, and there may be overriding considerations not addressed in this IM that would warrant approval in a specific situation.

- In these instances, the approval of commingling must include a detailed justification of the overriding considerations and how these considerations are in the public interest or the interest of the Indian tribe or allottees. The AO will only approve commingling after rigorous consideration of alternatives.

Attachment 1-14, example 2 at attachment 1-21, and example 5 at attachment 1-39 include more discussion of approvals granted under this category.

### **Compliance with Onshore Order Numbers 4 and 5**

Onshore Oil and Gas Order Numbers 4 and 5 apply to both sales and allocation facilities; operators proposing to use allocation facilities that do not comply with Onshore Orders 4 or 5 must obtain a variance approval to do so. Commingling approvals under each of the three categories described in this IM will potentially involve situations in which compliance with Onshore Orders 4 and 5 for allocation facilities either will not affect total Federal or Indian royalty or will be subordinate to other considerations. The BLM ordinarily will approve such variance requests that are part of a commingling approval granted under this IM.

### **Documentation for all Commingling Approvals**

The AO commingling approval documentation for the file and in the Automated Fluid Minerals Support System (AFMSS) must include the category numbers(s) that justifies the approval (Category 1 – no royalty impacts; Category 2 – low-volume properties with potential royalty impacts (economics); Category 3 – overriding considerations other than economics, with potential royalty impacts). For example, if the AO grants commingling approval based on economics, the approval documentation will include, “This commingling request was approved in accordance with Category 2 of IM, *Reviewing Requests for Surface and Downhole Commingling of Oil and Gas Produced from Federal and Indian Leases*.”

### **Existing Commingling Approvals**

This IM does not apply to commingling approvals issued before the date of this IM or to requests for minor modifications to existing commingling approvals such as the addition of new wells. However, the AO must review and document requests for major changes, including the addition of new leases (including State or fee leases), unit PAs, or CAs to an existing commingling approval in accordance with this IM.

### **Relationship of Commingling Approval to Off-Lease Beneficial Use**

The BLM is also aware that there is some confusion and interpretation inconsistency among both operators and the BLM regarding royalty-free use of oil and gas in separation, treatment, and processing equipment at the central delivery point (CDP) designated under a commingling approval. Many operators and some BLM offices have assumed that a commingling approval automatically implies approval of off-lease beneficial use. To eliminate potential policy inconsistency going forward, off-lease beneficial use must have its own approval based on its own merits.

- After the effective date of this IM, operators who seek approval of off-lease beneficial use in conjunction with commingling must expressly apply for that approval, separately from, simultaneously with, or as part of an application for approval of commingling.
- A separate IM will address beneficial use.

- To ensure consistency and correct understanding on the part of operators, the AO will immediately notify operators who apply only for commingling approval, without including a specifically expressed application for approval of off-lease beneficial use, that an application only for commingling approval will not be construed as an application for approval of off-lease beneficial use.
- AOs should limit off-lease beneficial use approvals to those situations justified by economics or when the equipment in which production is used cannot be sited on the lease, unit PAs, or CA because of topographical, environmental, or regulatory considerations.

Generally, absent approval of off-lease beneficial use, the only time gas or oil may be used royalty-free at a CDP is when the CDP is located on one of the leases, unit PAs, or CAs from which commingled production is originating. The operator may report as royalty-free beneficial use only the proportionate share of the fuel used that corresponds to the share of the total production flowing through the CDP that originates from that lease, unit, or CA.

In addition, royalty is due on oil and gas produced from one PA within a unit and used for lifting, separation, treatment, and processing on another PA within the same unit, absent BLM approval to do otherwise.

**Timeframe:** Effective immediately. State and field offices will implement this IM consistent with the guidance provided in attachment 1, Commingling Guidance, and document the commingling and approval analysis in the casefile.

**Budget Impact:** Implementation of this IM will result in increased time required for review of commingling requests, especially for leases, unit PAs, and CAs that have the potential to be low-volume or where there are overriding considerations.

**Background:** Industry typically requests commingling approval to:

- Reduce operating costs by consolidating processing, storage, and measurement equipment;
- Extend reservoir life (especially in the case of downhole commingling);
- Reduce environmental impacts by eliminating onsite processing and storage facilities;
- Use the same measurement points for both sales and royalty reporting; and
- Claim royalty-free use of oil or gas to run separation and treatment equipment (beneficial use) at a CDP off of one or more of the properties whose production is commingled upstream of or at the approved point of royalty measurement.

In March 2010, the Government Accountability Office (GAO) issued report GAO-10-313, "Interior's Oil and Gas Production Verification Efforts Do Not Provide Reasonable Assurance of Accurate Measurement of Production Volumes," recommending that the BLM "develop guidance clarifying when Federal oil and gas may be commingled and establish standardized measurement methods in such a way that production can be adequately measured and verified." The Department of the Interior committed to provide updated guidance to the field.

**This IM addresses both surface and downhole commingling** because there is little distinction between the two when it comes to production accounting. While both types of commingling can offer some benefits, they also require some form of allocation which can aggravate the potential for inaccurate measurement of oil and gas removed or sold from a lease, unit PA, or CA, and the inability to verify the amount or quality of this production. The goals of this IM are to balance the potential public interest benefits of commingling with the adverse impacts to measurement and production accounting, as well as to provide proper supporting documentation of the analysis for approved commingling requests.

**Manual/Handbook Sections Affected:** When the Production Accountability Handbook is developed, it will incorporate this policy.

**Coordination:** The Division of Fluid Minerals (WO-310), field and state offices, and the Office of the Solicitor coordinated preparation of this IM.

**Contact:** If you have any questions, please contact me at 202-208-4201. Your staff may contact Steven Wells, Division Chief, Division of Fluid Minerals, at 202-912-7143 or Rich Estabrook, Petroleum Engineer, Washington Office, at 707-468-4052.

Signed by:  
Michael Nedd  
Assistant Director, Minerals and Realty Management

Authenticated by:  
Catherine Emmett  
Division of IRM Governance

2 Attachments

- 1 – [Commingling Guidance \(45 pp\)](#)
- 2 – [Royalty Distribution Percentages \(3 pp\)](#)